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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,102	07/17/2003	Stephen S. Ing	117891-156747	8437
60/172 7590 11/05/2009 SCHWABE, WILLIAMSON & WYATT, P.C. 1420 FIFTH, SUITE 3010 SEATTLE, WA 98101				
EXAMINER				
VO, TUNG T				
ART UNIT		PAPER NUMBER		
2621				
MAIL DATE		DELIVERY MODE		
11/05/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/621,102

**Applicant(s)**

ING ET AL.

**Examiner**

Tung Vo

**Art Unit**

2621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09/22/2009.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 50-64 is/are pending in the application.  
4a) Of the above claim(s) 38-49 is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 50-64 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 17 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☒ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date 06/17/09  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Continued Examination Under 37 CFR 1.114*

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 09/22/2009 has been entered.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 50-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takashima (US 5,754,233) in view of Zhu et al. (US 5,812,699).

Re claims 50, 55, and 62-63, Takashima teaches a system (100 of fig. 5) and method comprising:

a processor (105 of fig. 5) to perform a bit rate control (107 of fig. 5) to compress a frame of uncompressed image data (109 of fig. 5);

a controller (104, 107, and 108 of fig. 5, elements are formed as a controller) coupled said processor (105 of fig. 5) to determine a capability of a codec under the control of the processor

(105 of fig. 5) to compress image data based on whether a difference between a compression time for a current frame (105 of fig. 5, note the encoding apparatus 100 also includes a counter 104 and a timing control circuit 105 fed with outputs of the counter 104 and the scene change detection circuit 101 ) and a target frame period exceeds a threshold (107 of fig. 5; see also fig. 8); and

a compressor (100 of fig. 5) including the processor (105 of fig. 5) and the codec (106 and 109 of fig. 5), the compressor (e.g. 106 and 109 of fig. 5) further including a first data e data stored in the first data storage queue (Video In is uncompressed data stored in the frame storage queue (102 of fig. 5, a frame memory) and a second data storage queue (110 and 111 of fig. 5) coupled to provide the processor (105 of fig. 1) separate from uncompressed image memory, 102 of fig. 5),

a respective current count values (e.g. 104 of fig. 5, picture counter, macro-block counter, and other counters, the counter (104) provides count values to the generator (105)) of the uncompressed image data stored in the first data storage queue and separate from compressed image data stored in the second data storage queue (e.g. a code buffer stored the compressed image data, 110 of fig. 5), a current byte count of the compressed image data stored in the second data storage queue (e.g. a buffer counter, 108 of fig. 5), to allow the processor (105 of fig. 5) to facilitate an adjusting of a target frame rate (107 of fig. 5).

It is noted that Takashima does not particularly teach a respective current byte count of a current frame of the uncompressed image data as claimed.

However, Zhu teaches a respective current byte count ((C) BIT COUNTER (KBYTES) of fig. 3A and 3B) of a current frame ((A) FRAMES of fig. 3A and 3B) of the uncompressed image data (FRAMES of fig. 3A and 3B).

Therefore, taking the teachings of Takashima and Zhu as a whole, it would have been obvious to one of ordinary skill in the art to modify the teachings of Zhu into the system of Takashima to provide an improved scheme for selecting frames for video compression.

Re claims 51, 56, Takashima further discloses wherein said controller is further to adjust said target frame rate based at least in part on the compression time (104, 105, and 107 of fig. 5).

Re claims 52, 57, Takashima further discloses wherein said controller is configured to adjust said target frame rate to a value equal to a frame rate of a video capture device divided by an integer divisor (107 of fig. 5, see also fig. 8).

Re claims 53, 58, Takashima further discloses wherein the frame rate of the video capture device is 30 frames per second and the integer divisor has a value between 1 and 30 (e.g. Video In is inherently 30 frames per second and the rate controller sets a range for the code generation rate which ranges from a picture next to an intra-picture to the next intra-picture, which encompasses a value between 1 to 30, 107 of fig. 5).

Re claims 54, 59, and 64 Takashima further discloses wherein the threshold corresponds to a predetermined portion of the target frame period (Note In the encoding apparatus 100 shown in FIG. 5, a scene change is detected by integrating the inter-picture differences for one picture period, 101 of fig. 4).

Re claim 60, Takashima further discloses wherein the codec (106 and 109 of fig. 5) is coupled to receive the uncompressed image data from the first data storage queue (102 of fig. 5)

and coupled to provide the compressed image data to the second data storage queue (110 of fig. 5).

Re claim 61, Takashima further discloses wherein the processor (105 and 107 of fig. 5) is to control a compression rate of the codec.

Re claim 65, Takashima further teaches wherein the compression algorithm is configured to compare a bit usage distribution of a current video frame to a bit usage distribution of a previous video frame (106 of fig. 5).

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Measera et al. (US 5,142,362) discloses method of hybrid digital coding distinguishing motion pictures from still pictures.

### ***Contact Information***

1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tung Vo whose telephone number is 571-272-7340. The examiner can normally be reached on Monday-Wednesday, Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on 571-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tung Vo/  
Primary Examiner, Art Unit 2621